HUSCH BLACKWELL



# Frederick G. Jauss, IV


**SENIOR COUNSEL**

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**OVERVIEW**

## For more than 15 years, Fred has guided energy clients around the globe through sophisticated supply regulations.

Fred enjoys assisting clients in both the oil and gas sector and the electricity industry on navigating complex regulatory issues. He represents wind and solar electricity generators, oil producers and refiners, shippers, marketers and consumers – among myriad other energy clients – on matters before the Federal Energy Regulatory Commission (FERC), state public utility commissions, and state and federal courts.

In Fred's oil and gas regulatory practice, he helps clients at all phases of the supply chain from upstream companies producing crude oil, to midstream clients handling pipeline fields, and downstream clients refining and distributing petroleum products such as gasoline, diesel and jet fuel. In assisting clients in the electricity sector, Fred advises on issues related to cogeneration, small power production and regulatory compliance, as well as selling excess power and acquiring new power plants. Clients appreciate his deep experience in the industry and his ability to provide efficient and cost-effective business-to-business solutions customized to client goals.

## Industry

Energy & Natural Resources

## Services

Biofuels, Biomass, & Landfill Gas
Electric Transmission
Energy Regulation
Hydrogen
Mergers & Acquisitions
Oil & Gas

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# Experience

### TRANSACTIONAL MATTERS

- Advised governmental agency on leasing and operation of petroleum products terminal; advised terminal owner on compliance with federal antitrust decree.
- Assisted with lease of tanker trucks for distribution of refined products to service stations.
- Provided regulatory counsel to purchasers of interests in crude oil and refined products pipelines.
- Advised purchaser of petroleum products terminal on terminal operations and services agreement.
- Advised owner of petroleum products terminal on issues related to jet fuel storage.

### NATURAL GAS

- Advised a utility company on Federal Energy Regulatory Commission natural gas regulatory requirements associated with the acquisition of three local distribution companies in Louisiana and Mississippi.
- Represented a renewable energy developer in the development of a food waste-to-renewable natural gas project in New Jersey, including regulatory due diligence on federal and state energy regulatory issues, and pipeline safety matters before the Pipeline and Hazardous Materials Safety Administration and the New Jersey Board of Public Utilities.
- Represented major producer and shipper of natural gas in rate proceedings before Regulatory Commission of Alaska (RCA); contested issues included rate design, rate base, depreciation and allocation of corporate overhead; successfully negotiated favorable settlements.
- Represented interstate natural gas pipeline before Federal Energy Regulatory Commission (FERC) in proceeding to obtain authority to abandon existing natural gas pipeline and obtain certificate of convenience and public necessity to construct new interstate natural gas pipeline in one of the few instances of proprietary natural gas pipeline service.

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## Experience

- Advised customers of interstate natural gas pipeline on cost-of-service rate proceedings pursuant to Section 4 of the Natural Gas Act.
- Provided regulatory counsel to municipal entities in Hinshaw gas pipeline transaction.
- Advised shippers of natural gas in capacity release transactions.
- Negotiated and drafted asset management agreements for shippers of natural gas.

### ELECTRICITY

- Represented a renewable energy developer in the development of 395 megawatts of solar facilities in Louisiana and Arkansas, including representation before the Federal Energy Regulatory Commission to obtain electric market-based rate authority prior to construction and Federal Power Act Section 203 authority after construction to permit the sale of the facilities.
- Represented a pipeline company in cost-of-service rate and index rate proceedings before the Federal Energy Regulatory Commission.
- Represented a renewable energy developer in a complex joint venture transaction requiring approvals from the Federal Energy Regulatory Commission under Section 203 of the Federal Power Act.
- Represented a lender in a tax equity transaction involving state regulatory issues related to an investment in a solar facility in Maryland.
- Represented a power marketing company before the Federal Energy Regulatory Commission to obtain an electric market-based rate tariff to support power marketing operations and before the U.S. Department of Energy to obtain a license to export electricity to Mexico.
- Advised generators and power marketers on "Open Access" policies and regulations.
- Represented generators and power marketers in generator interconnection issues.

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## Experience

- Represented generators and power marketers in applications for market-based rate authority under Section 205 of Federal Power Act (FPA).
- Represented power marketers and generators in applications for transfer of jurisdictional assets pursuant to Section 203 of FPA.
- Represented generator in successful application for reactive power tariff.
- Assisted multiple cogenerators with certification of qualifying cogeneration and small power production facilities under Public Utility Regulatory Policies Act (PURPA).
- Represented electric cooperative in one of the few successful decertifications of proposed cogeneration facilities under PURPA and Energy Policy Act of 2005.
- Advised electric cooperative on issues related to power purchase agreements before RCA.
- Advised electric cooperative on Public Utilities Holding Company Act (PUHCA) compliance with regard to sale and leaseback financing of new generation facility.
- Advised generator and power marketer on North American Electric Reliability Corporation (NERC) compliance and enforcement.
- Successfully challenged federal license application for new hydroelectric facility on behalf of municipal entity.

### OIL PIPELINE: COST-OF-SERVICE AND INDEXED RATE

- Represented a territorial government in the leasing and operation of petroleum product terminal facilities in compliance with an antitrust decree.
- Represented an energy company in oil pipeline rate and complaint proceedings involving interstate and intrastate refined petroleum pipelines before the Federal Energy Regulatory Commission and the California Public Utilities Commission.

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## Experience

- Navigated litigation and settlement of oil pipeline rates before FERC and various state commissions involving full range of cost-of-service analysis, including cost of capital, depreciation, operating and maintenance expenses, income tax allowance, allocation of parent company overhead, rate design and regulatory throughput volume on behalf of clients..
- Successfully opposed substantial rate increases filed with FERC ranging from 30 to 105 percent on refined products and natural gas liquids pipeline; negotiated settlement providing for rate reductions, temporary rate freeze and settlement payment for shippers.
- Represented shipper of crude oil in rate proceeding before FERC and RCA involving initial rates on new crude oil pipeline on North Slope; successfully negotiated favorable settlement providing for rate reduction of 37 percent and requirement to file full cost-of-service rate case within three years.
- Successfully opposed rate increase of 76 percent proposed by interstate product pipeline; client received substantial refunds as part of settlement reducing rate increase to 23 percent.
- Represented shippers of crude oil in rate proceeding before FERC involving initial rates for newly reversed crude oil pipeline; final commission order resulted in rate reductions of approximately 60 percent.
- Successfully blocked proposed open-ended surcharge filed with FERC to recover hurricane recovery costs at crude oil terminal in Louisiana; under settlement, recoverable expenses were capped and duplicative temporary pumping surcharge was dropped.
- Successfully challenged previously nonjurisdictional rate for connecting line service in Los Angeles; final FERC order found that rate should be reduced from 5.0 to 0.85 cents per barrel.
- Successfully filed complaints against interstate petroleum product pipelines and obtained favorable rate settlements concerning the same.
- Represented refining interests in petroleum product pipeline complaint, cost of service and market-based rate proceedings before California Public Utility Commission (CPUC).

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## Experience

- Represented major refiner and marketer of gasoline, diesel and jet fuel in first fully litigated protest to proposed index rate increase by major refined products pipeline; FERC Presiding Judge granted shippers' motion for summary disposition prior to hearing.
- Represented shippers in one of the few successful complaints against proposed index rate increases at FERC.

### OIL PIPELINE: MARKET-BASED RATE

- Represented refiner and marketer of gasoline, diesel and jet fuel in first successful challenge to prior grant of market-based rate authority for petroleum product pipeline; successfully negotiated settlement of subsequent cost-of service rate proceeding, resulting in settlement payments for shippers and rate reductions ranging from 33 to 45 percent.
- Successfully opposed application to FERC for market-based rates by product pipeline system serving Southeast markets on behalf of refiner and marketer of gasoline, diesel and jet fuel; final commission order found that pipeline had failed to demonstrate it lacked market power in contested markets.
- Successfully opposed application for market-based rates before FERC on products pipeline serving East Coast markets on behalf of refiner and marketer of gasoline, diesel and jet fuel.
- Represented shippers of crude oil in opposing applications before FERC for market-based rates on crude oil pipelines, successfully delaying implementation of market-based rates and saving clients millions of dollars in increased transportation costs.

### OIL PIPELINE: GRANDFATHERED RATE

- Represented refining interests in oil pipeline complaint and rate-making proceedings involving issues related to, among others, substantially changed economic circumstances and grandfathered rates under Energy Policy Act of 1992.
- Successfully reopened "grandfathered" rates and obtained substantial rate reduction on products line connecting Los Angeles with Arizona and Nevada.

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## Experience

- Successfully reopened previously "grandfathered" charge for "drain dry" service at receiving terminal in Los Angeles; service charge reduced from 3.2 to 0.3 cents per barrel.

### OIL PIPELINE: PRORATIONING POLICIES

- Successfully represented shippers of crude oil in complaint and protest against major crude oil pipeline's prorationing policies; spearheaded group of shippers to craft alternative prorationing policy and technical conference and obtained unprecedented order from FERC ordering adoption of shipper proposal.
- Advised shippers on numerous crude oil, natural gas liquids and refined products pipeline prorationing policies.

### OIL PIPELINE: TARIFF ASSISTANCE

- Structured and drafted crude oil and petroleum product pipeline tariffs.
- Advised interstate oil pipelines in connection with acquisition of assets and assisted in preparation of FERC tariffs and reports.

## Recognition

- Thomson Reuters' Washington, DC, Super Lawyers, Energy & Natural Resources, 2019-2020; Rising Star, 2015-2017
- Legal Media Group, Rising Star, 2015

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## Education

- J.D., American University Washington College of Law
  - *Administrative Law Review*, Symposia Editor
  - Regulation of Energy Scholarship
- M.A., University of Pennsylvania
  - History
- B.A., University of Pennsylvania
  - With Honors
  - History

## Admissions

- District of Columbia
- Pennsylvania
- U.S. Court of Appeals, District of Columbia Circuit
- U.S. District Court, District of Columbia
- U.S. Bankruptcy Court, District of Columbia

## Clerkships

- The Hon. Jerome P. Cheslock, Court of Common Pleas, 43rd Judicial District, Monroe County, Pennsylvania

## Community Leadership

- Greater DC Diaper Bank, Board of Directors

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